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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/768,404

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Sven Schwerin-Wenzel

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EXAMINER

STRODER, CARRIE A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/768,404	Applicant(s) SCHWERIN-WENZEL ET AL.	
	Examiner CARRIE A. STRODER	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,24,26,27 and 29-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,24,26,27 and 29-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant's communication filed on 14 December 2010, wherein:

Claims 1-5, 24, 26-27, and 29-36 are currently pending;
claims 6-23, 25, and 28 are cancelled;
claims 1, 3, and 30 are currently amended; and
claims 34-36 are new.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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3. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanches (US 20030018510), in view of Kirby et al. (US 20040024629), and further in view of Stevens, Richard, *TCP/IP Illustrated, Volume 1: The Protocols*, December 31, 1993 (hereinafter referred to as "Stevens").

Referring to claim 1:

Sanches discloses

displaying a user interface in association with a deal selection process, the user interface including a view that includes a profile of at least one of a merger candidate and acquisition candidate (paragraphs 30-31; "...mergers and acquisitions..." and "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of potential initiative participants and entities (collectively "initiative entities");");

executing, via two or more source systems as a single logical information system pre-change due diligence and post-change integration of the enterprise change, the enterprise change being at least one of a merger and acquisition, the pre-change due diligence including operations associated with pre-change due diligence on the at least one of the merger candidate and acquisition candidate, the source systems interacting with databases through base system connectors using a markup language

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(paragraphs 30-31, 48, 55, & 191; where "web-based platform" implies the use of the internet, which is interpreted as treating two or more source systems as a single logical information system and where a "source system" is interpreted as a "client system" in accordance with paragraph 31 of the applicant's specification and where the use of the web implies the use of markup language, as HTML is a markup language and one of the popular document formats of the web and "A client's MECA implementation runs on a collection of industrial database, application, and telephony servers in an ultra-secure data center." and "...mergers and acquisitions..." and "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of potential initiative participants and entities (collectively "initiative entities");"); and

displaying a user interface on a computer display to conduct a merger activity, wherein the user interface displayed on the computer display includes features to define a merger and acquisition project from a merger and acquisition template, the features including (paragraphs 143 and 149; "templates for new actions" and "M&A, restructuring, or re-structuring, or re-organization challenges");

creating a task force and assigning team members to the task force (paragraph 40; "define and track group membership");

generating a schedule for the task force to follow (paragraph 291; "scheduling and monitoring the progress of Task objects");

generating project proposals to be completed by the task force (paragraph 55; "create, browse, and manage action plans"); and

publishing information about the task force, schedule, and project proposals to one or more stakeholders (paragraph 55; "...sends key communications and action items to initiative participants via their preferred communications methods...").

Sanches does not disclose; however, Kirby teaches a project management tab (paragraph 42; "project tab").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches by using tabs as taught by Kirby because this would provide a manner in which to organize the software, thereby providing the user with an easy-to-use user interface.

Sanches and Kirby do not disclose; however, Stevens teaches the base system connectors including an interface with remote function call capability (pages 2-3; "RPC, Remote Procedure Call, is a different way of doing network programming. A client program is written that just calls functions in the server program." and further, Examiner notes that this limitation

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receives little patentable weight as providing a capability is not a positive claim limitation).

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches and Kirby by using remote function call capability as taught by Stevens because this would provide a manner in which to facilitate the programming, since little or no network programming is involved, thereby providing the user the desired features at a lower cost.

Referring to claim 2:

Sanches discloses wherein the user interface is adapted to allow a stakeholder to plan and manage the merger activity, the user interface further adapted to allow a user to access one or more merger resources (paragraphs 50 & 55).

Referring to claim 3:

Sanches discloses

displaying a user interface in association with a deal selection process, the user interface including a view that includes a profile of at least one of a merger candidate and acquisition candidate (paragraphs 30-31; "...mergers and acquisitions..." and "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of

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potential initiative participants and entities (collectively "initiative entities");");

executing, via a single logical physically distributed information system representing one or more source systems of at least two enterprises that are being combined, one or more pre-merger activities, merger activities, and post-merger activities, the one or more pre-merger activities including one or more pre-merger activities associated with pre-merger due diligence on the merger candidate, the source systems interacting with databases through base system connectors using a markup language (paragraphs 30-31, 48, 55, & 191; where "web-based platform" implies the use of the internet, and where a "source system" is interpreted as a "client system" in accordance with paragraph 31 of the applicant's specification and where the use of the web implies the use of markup language, as HTML is a markup language and one of the popular document formats of the web and "A client's MECA implementation runs on a collection of industrial database, application, and telephony servers in an ultra-secure data center." and "...mergers and acquisitions..." and "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of potential initiative participants and entities (collectively "initiative entities");"); and

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displaying a user interface on a computer display to access the single logical physically distributed information system, wherein the user interface displayed on the computer display includes features to define a merger and acquisition project from a merger and acquisition template, the features including (paragraphs 55, 143 and 149; "templates for new actions" and "M&A, restructuring, or re-structuring, or re-organization challenges"):

creating a task force and assigning team members to the task force (paragraph 40; "define and track group membership");

generating a schedule for the task force to follow (paragraph 291; "scheduling and monitoring the progress of Task objects");

generating project proposals to be completed by the task force (paragraph 55; "create, browse, and manage action plans"); and

publishing information about the task force, schedule, and project proposals to one or more stakeholders (paragraph 55; "...sends key communications and action items to initiative participants via their preferred communications methods...").

Sanches does not disclose; however, Kirby teaches a project management tab (paragraph 42; "project tab").

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It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches by using tabs as taught by Kirby because this would provide a manner in which to organize the software, thereby providing the user with an easy-to-use user interface.

Sanches and Kirby do not disclose; however, Stevens teaches the base system connectors including an interface with remote function call capability (pages 2-3; "RPC, Remote Procedure Call, is a different way of doing network programming. A client program is written that just calls functions in the server program." and further, Examiner notes that this limitation receives little patentable weight as providing a capability is not a positive claim limitation).

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches and Kirby by using remote function call capability as taught by Stevens because this would provide a manner in which to facilitate the programming, since little or no network programming is involved, thereby providing the user the desired features at a lower cost.

Referring to claim 5:

Sanches discloses wherein the role of the user further comprises a stakeholder affected with one or more merger closing

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consequences, wherein the one or more merger activities comprise an organizational restructuring, a personnel redeployment, a merger project management, a procurement management, a personnel retainment, and an integration of operational services (paragraphs 50 & 58; where "managers" is interpreted to include a stakeholder affected with one or more merger closing consequences).

Referring to claim 30:

Sanches discloses

displaying a user interface in association with a deal selection process, the user interface including a view that includes a profile of at least one of a merger candidate and acquisition candidate (paragraphs 30-31; "...mergers and acquisitions..." and "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of potential initiative participants and entities (collectively "initiative entities");");

executing, via two or more source systems as a single logical information system pre-change due diligence and post-change integration of the enterprise change, the enterprise change being at least one of a merger and acquisition, the pre-change due diligence including operations associated with pre-change due diligence on the at least one of the merger candidate

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and acquisition candidate, the source systems interacting with databases through base system connectors (paragraphs 30-31, 48, 55, & 191; where "web-based platform" implies the use of the internet, which is interpreted as treating two or more source systems as a single logical information system and where a "source system" is interpreted as a "client system" in accordance with paragraph 31 of the applicant's specification and where the use of the web implies the use of markup language, as HTML is a markup language and one of the popular document formats of the web and "A client's MECA implementation runs on a collection of industrial database, application, and telephony servers in an ultra-secure data center." "...mergers and acquisitions..." and "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of potential initiative participants and entities (collectively "initiative entities");"); and

displaying a user interface on a computer display to conduct a merger activity, wherein the user interface displayed on a computer display includes features to define a merger and acquisition project from a merger and acquisition template, the features including (paragraphs 143 and 149; "templates for new actions" and "M&A, restructuring, or re-structuring, or re-organization challenges"):

creating a task force and assigning team members to the task force (paragraph 40; "define and track group membership");

generating a schedule for the task force to follow (paragraph 291; "scheduling and monitoring the progress of Task objects");

generating project proposals to be completed by the task force (paragraph 55; "create, browse, and manage action plans"); and

publishing information about the task force, schedule, and project proposals to one or more stakeholders (paragraph 55; "...sends key communications and action items to initiative participants via their preferred communications methods...").

Sanches does not disclose; however, Kirby teaches a project management tab (paragraph 42; "project tab").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches by using tabs as taught by Kirby because this would provide a manner in which to organize the software, thereby providing the user with an easy-to-use user interface.

Sanches and Kirby do not disclose; however, Stevens teaches the base system connectors using a web service (pages 2-3; "...if both hosts are connected across a network and have a TCP/IP

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implementation" and where "web service" is interpreted as SOAP, RPC, or TCP/IP, in accordance with applicant's specification).

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches and Kirby by using TCP/IP as taught by Stevens because this would provide a manner in which to communicate between the source systems and the databases, thereby benefitting the client by enabling the performance of the software.

4. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanches (US 20030018510), in view of Kirby et al. (US 20040024629), further in view of Stevens, Richard, *TCP/IP Illustrated, Volume 1: The Protocols*, December 31, 1993 (hereinafter referred to as "Stevens"), and further in view of Marpe (US 20020184191).**

Referring to claim 4:

Sanches, Kirby, and Stevens do not disclose; however, Marpe teaches wherein the user interface is adapted to at least one of a role of the user and a phase of the merger, wherein the user role comprises an internal expert and an external expert of one of the enterprises, wherein the internal expert comprises at least one of an executive, an employee, a manager, an investor, and an owner of one of the enterprises, wherein the external

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expert comprises at least one of a consultant and an auditor (paragraphs 6-7 and 245-246).

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches, Kirby, and Stevens as taught by Marpe because this would provide a user interface adapted to the needs of the user.

5. Claims 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanches (US 20030018510), in view of Kirby et al. (US 20040024629), further in view of Stevens, Richard, *TCP/IP Illustrated, Volume 1: The Protocols*, December 31, 1993 (hereinafter referred to as "Stevens"), and further in view of Chatterjee et al. (US 7162691).

Referring to claims 24 & 27:

Sanches, Kirby, and Stevens do not explicitly disclose; however, Chatterjee teaches wherein the markup language is extensible markup language (Abstract).

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches, Kirby, and Stevens as taught by Chatterjee because this would comply with commonly used standards on the internet.

Referring to claims 25 & 29:

Chatterjee teaches wherein the interface is an encapsulated postscript interface (col. 5, line 35 thru col. 6, line 15).

Referring to claim 32:

Sanches, Kirby, and Stevens do not explicitly disclose; however, Chatterjee teaches wherein the merger and acquisition template interacts with metadata (col. 1, lines 41-55; "In accordance with the invention, a media-specific parsing program may be advantageously used to extract metadata already stored in external media files or other media resources referred to in a Web page in accordance with the format specifications for that referenced data's particular media type.").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches, Kirby, and Stevens as taught by Chatterjee because this would provide a manner in which to use metadata, which provides the customer with valuable information.

Referring to claim 33:

Chatterjee teaches wherein the metadata is included in at least one of a database and a repository in a persistence/repository layer (col. 1, lines 41-55; "In accordance with the invention, a media-specific parsing program may be advantageously used to extract metadata already stored in external media files or other media resources referred to in a

Web page in accordance with the format specifications for that referenced data's particular media type.").

6. **Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanches (US 20030018510), in view of Kirby et al. (US 20040024629), further in view of Stevens, Richard, *TCP/IP Illustrated, Volume 1: The Protocols*, December 31, 1993 (hereinafter referred to as "Stevens"), and further in view of Boubez et al. (US 20020087374).**

Referring to claim 31:

Sanches, Kirby, and Stevens do not disclose; however, Boubez teaches wherein the web service includes simple object access protocol (paragraph 43; "The use of WSDL is standard, defining the "reusable" portion of a web service over the Simple Object Access Protocol (SOAP).").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches, Kirby, and Stevens as taught by Boubez because this would provide a manner in which to provide a web service using standard protocol.

7. **Claim 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanches (US 20030018510), in view of Kirby et al. (US 20040024629), further in view of Stevens, Richard, *TCP/IP Illustrated, Volume 1: The Protocols*, December 31, 1993**

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(hereinafter referred to as "Stevens"), and further in view of Official Notice.

Referring to claims 34-36:

Sanches, Kirby, and Stevens do not teach wherein the operations further comprise a process for a rollback in the event that the at least one of a merger and acquisition fails. However, Examiner takes Official Notice that rollbacks, which is interpreted by the Examiner as a return to a previous state, were well known at the time of invention to persons of ordinary skill in the art. For example, most software applications have a "save" feature, and if undesirable changes are made, the individual may open the last saved version to "rollback" to the previous state. In the case of a merger or acquisition which was partially completed, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to simply undo the steps which had been completed towards the merger.

Therefore, it would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Sanches, Kirby, and Stevens by using a rollback process as taught by Official Notice because this provides an efficient method for returning to a previous state, thereby allowing business to continue unhindered.

Response to Arguments

Applicant's arguments, see Remarks, pages 7-8, filed 14 December 2010, with respect to a withdrawal of the finality of the previous office action have been fully considered and are persuasive. The finality of the previous office action has been withdrawn.

Applicant's arguments with respect to the rejection under 35 USC 103, however, are not persuasive. Applicant argues that the prior art does not teach the "displaying" step or the "executing" step of claims 1, 3, and 30 as amended. Examiner respectfully disagrees. Sanches states, in paragraphs 30-31, that his invention is directed to "...mergers and acquisitions..." and that "The essential steps are: (1) Planning the initiative; (2) mapping or modeling the organization of potential initiative participants and entities (collectively "initiative entities")..."

Examiner notes that the claim language of the preamble ("A computer program product for facilitating an enterprise change, residing in a computer readable medium...") could possibly be interpreted to include non-transitory embodiments. Examiner suggests that applicant include language limiting the product to embodiment on a *non-transitory* computer readable medium.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARRIE A. STRODER whose telephone number is (571)270-7119. The examiner can normally be reached on Monday - Thursday 8:00 a.m. - 5:00 p.m. ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan Mooneyham can be reached on (571)272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CARRIE A. STRODER/
Examiner, Art Unit 3689
/Dennis Ruhl/

Primary Examiner, Art Unit 3689